

**FILED**

**FEB 05 2010**

  
CLERK

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA**

Scott Armstrong,

Case No: 09-5010

Plaintiff,

**NOTICE OF REMOVAL**

v.

JPMorgan/Chase, Inc.  
(As assignee of Washington Mutual Inc.)  
A Foreign Corporation,

Defendant.

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, defendant Chase Bank USA, N.A. ("Chase") (improperly named as JPMorgan/Chase, Inc., as assignee of Washington Mutual, Inc., a foreign corporation<sup>1</sup>) hereby removes to this court the state court complaint described below. In support of this notice of removal, Chase states and alleges as follows:

1. Plaintiff mailed a state court summons and complaint to Chase's registered agent for service of process. Chase's registered agent for service of process received the summons and complaint by mail on January 8, 2010, along with a request that Chase waive personal service. The complaint alleges, among other things, violations of the Fair Debt Collection Practices Act ("FDCPA") (15 U.S.C. § 1692d(1-6) and 15 U.S.C. § 1692c and b (2, 5 and 6)). Plaintiff requests, among other things, statutory damages pursuant

<sup>1</sup> Washington Mutual, Inc. is in bankruptcy. This bankruptcy proceeding is pending in the U.S. Bankruptcy Court for the District of Delaware as Case No. 08-12229.

to the FDCPA. Pursuant to 28 U.S.C. § 1446(a), a complete copy of the summons and complaint in this action is attached hereto as Exhibit 1.

2. Pursuant to Plaintiff's request, on January 28, 2010 Chase waived personal service of the summons and complaint.

3. This notice of removal is, therefore, timely filed pursuant to 28 U.S.C. § 1446(b).

4. This court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331 because Plaintiff's complaint is founded upon claims or rights arising under the laws of the United States. Specifically, Plaintiff alleges violations of the FDCPA. Based on this court's original jurisdiction under 28 U.S.C. § 1331, the court may exercise supplemental jurisdiction over Plaintiff's additional state law claims, pursuant to 28 U.S.C. § 1367.

5. This action may be removed to this court pursuant to 28 U.S.C. § 1441(b) because, as set forth above, this court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331, and this court is the district "embracing the place where [the state court] action is pending." 28 U.S.C. § 1441(a).

6. Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, removal of the state court action to this court is appropriate.

7. Pursuant to 28 U.S.C. § 1446(d), a copy of this notice of removal is being served on Plaintiff and filed with the Clerk of the Seventh Judicial District Court, Pennington County, State of South Dakota.

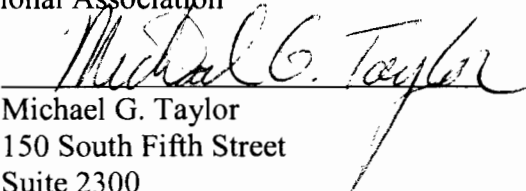
WHEREFORE, Chase hereby removes the state court action to this Court.

Respectfully submitted,

Dated: February 4, 2010

**LEONARD, STREET & DEINARD,**  
Professional Association

By:

  
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**Attorneys for Chase Bank USA, N.A.,  
Improperly Named as JPMorgan/Chase,  
Inc., as Assignee of Washington Mutual,  
Inc., a Foreign Corporation**